

AMENDED IN ASSEMBLY APRIL 15, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1388

Introduced by Committee on Agriculture

March 4, 2013

~~An act to amend Section 9641.5 of the Food and Agricultural Code, relating to animal quarantine. An act to amend Sections 9641.5, 24000, 24001, 24004, 24005, 24006, 24008, 24009, 24011, 24012, and 24015 of, to amend and repeal Section 24011.5 of, and to add Section 24011.6 to, the Food and Agricultural Code, relating to horses.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1388, as amended, Committee on Agriculture. ~~Animal quarantine: horses and Equidae: importation: test verification. Horses: test verification, horse shows, competitions, and sales.~~

~~Existing~~

(1) *Existing* law requires any horse or other Equidae brought into this state to be accompanied by a certificate of health and verification that the horse or Equidae has been tested within the preceding 6 months and found negative to a test for equine infectious anemia, except as otherwise specified. A violation of those provisions is a crime.

This bill would instead require verification that a horse or other Equidae has been tested, and found negative, for equine infectious anemia within the preceding 12 months. ~~The bill would also make technical changes.~~

(2) *Existing* law provides for the regulation of horse shows, competitions, or sales by the Secretary of Food and Agriculture, and defines public horse shows, competitions, or sales for those purposes. *Existing* law provides that a trainer or owner of a horse, or both, are

responsible for complying with the provisions regulating horse shows, competitions, and sales, and makes a trainer or owner responsible for complying with specified requirements after any course of medical therapy has been administered or prescribed by a licensed veterinarian who is employed to examine or treat a horse pursuant to those provisions. Existing law generally requires every horse show, competition, or sale to be registered with the Department of Food and Agriculture, and requires an event manager to file a completed registration form with the department at least 30 days prior to the beginning of the event. A violation of the provisions relating to horse shows, competitions, or sales is a crime.

This bill would instead define events that are subject to those provisions as “public equine events” and “public horse sales,” as specified. The bill would specify that the trainer and owner are both responsible for compliance with the requirements regarding the administration of medical therapy after the licensed veterinarian is employed by either the trainer or owner. By expanding the scope of a crime, the bill would impose a state-mandated local program. The bill would extend the deadline for registration for an event by an event manager from 30 days to 60 days prior to the beginning of the event.

(3) Existing law makes the provisions regulating horse shows and competitions inapplicable to public horse shows and competitions that do not last longer than a day and in which the cumulative fees do not exceed \$4.99.

This bill would instead make the provisions regulating public equine events inapplicable to events where the entry fee for a single, one-day event does not exceed \$4.99, and any other fees charged do not exceed \$19.99.

(4) Existing law authorizes the therapeutic administration of nonsteroidal anti-inflammatory drugs (NSAIDs), prior to and during all events except public auctions, provided that the dosage does not exceed limits established by regulation. Existing law establishes the maximum detectable plasma levels for certain NSAIDs for those purposes.

This bill would require the department to establish, by regulation, an approved therapeutic medications list and maximum detectable plasma levels on or before July 1, 2014, and would repeal the provisions establishing the maximum detectable plasma levels specified by statute on that date.

(5) *This bill would also make other technical and conforming changes.*

(6) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9641.5 of the Food and Agricultural Code
2 is amended to read:

3 9641.5. (a) Any horse or other Equidae brought into this state
4 shall be accompanied by the following:

5 (1) A certificate of health from the state of origin issued by an
6 accredited veterinarian. The certificate shall state that the horse or
7 other Equidae is free from evidence of any communicable disease.

8 (2) Verification that any horse or Equidae has been tested within
9 the preceding 12 months and found negative to a test for equine
10 infectious anemia. The test shall be approved by the secretary and
11 conducted by a laboratory approved by the United States
12 Department of Agriculture, and the necessary sample shall be
13 taken, and the verification signed by, an accredited veterinarian.

14 (b) A nursing foal of less than six months of age when
15 accompanied by a negative dam and any horse or other Equidae
16 consigned for immediate slaughter shall be exempt from the testing
17 requirements of this section.

18 (c) Any horse or other Equidae moved from California to another
19 state for a period of not more than 14 days, ~~are~~ *is* exempt from this
20 section upon returning to California, ~~provided~~, *provided* that the
21 exemption does not apply to any horse or other Equidae that leaves
22 the continental United States.

23 SEC. 2. Section 24000 of the Food and Agricultural Code is
24 amended to read:

25 24000. The Legislature finds and declares the following:

26 (a) That the public has a valuable interest in public ~~horse shows,~~
27 ~~horse competitions,~~ *equine events* and *public horse sales*.

(b) That it is the intent of this chapter to ensure the integrity of public horse shows, horse competitions, and equine events and public horse sales through the control of performance and disposition enhancing medications while limiting permitted therapeutic usage at horse shows and competitions.

SEC. 3. Section 24001 of the Food and Agricultural Code is amended to read:

24001. For the purposes of this chapter:

(a) “Event” means ~~any a public horse show, competition (including equine event or public horse sale that is held in the state, including a cutting horse competitions, competition, an endurance riding competitions, competition, a competitive trail competitions, gymkhanas, and competition, or any other competition as determined by the secretary department by regulation), or sale, in which money, goods, or services are exchanged for the right to compete for a single set of placings leading to points or awards at the show or competition, or to permit a horse to be consigned for sale.~~ “Event” does not include any of the following: regulation.

(b) An equine event that is subject to the provisions of this chapter shall meet all of the following criteria:

(1) Money, goods, or services are exchanged for the right to compete.

(2) Individuals compete for a single set of placings, points, or awards at the equine event.

(3) For one-day events, the entry fee to enter a single class exceeds four dollars and ninety-nine cents (\$4.99), and either no other fees are charged or other fees charged exceed nineteen dollars and ninety-nine cents (\$19.99). Fees charged may include ground fees, stall fees, or any other fees composed of money, goods, or services assessed to permit competitors to enter into the event.

(c) Sales that are subject to the provisions of this chapter are public sales that permit a horse to be consigned for public sale.

(d) The following events are excluded from this chapter:

(1) ~~Those competitions~~ Competitions subject to the jurisdiction of the California Horse Racing Board.

(2) Sales consisting solely of racing stock.

(3) Parade horse competitions.

~~(3)~~

1 (4) A *timed* rodeo-related *performance* competition ~~including~~
2 ~~both rough stock and timed performance competitions~~ when held
3 apart from a horse show, *including, but not limited to, rodeo,*
4 *roping club, cattle team penning, barrel racing, and gymkhana.*

5 ~~(4) Roping club events when held apart from a horse show.~~

6 ~~(5) Cattle team pennings when held apart from a horse show.~~

7 ~~(6) Barrel racing when held apart from a horse show.~~

8 ~~(7) Parade horse competitions.~~

9 ~~(8) Public horse shows and public horse competitions that do~~
10 ~~not last longer than one day and whose total cumulative fees to~~
11 ~~enter into any one or all classes do not exceed four dollars and~~
12 ~~ninety-nine cents (\$4.99), unless otherwise prescribed by the~~
13 ~~secretary by regulation. “Grounds fees,” “stall fees,” or any other~~
14 ~~fee composed of money, goods, or services, which is assessed to~~
15 ~~permit competitors or consignors to enter into an event are~~
16 ~~considered a part of this total cumulative fee.~~

17 ~~(b)~~

18 (e) “Event manager” means the person in charge of an event,
19 including the entity or individual financially responsible for the
20 event that is responsible for registering the event with the
21 department, and who is responsible for the assessment, collection,
22 and remittance of fees. “Event manager” includes horse show
23 secretaries and managers, competitive event managers, and horse
24 sale managers and sale owners.

25 ~~(e)~~

26 (f) “Horse” means ~~and includes~~ all horses, mules, and asses.

27 ~~(d)~~

28 (g) “Licensed veterinarian” means ~~any~~ a person licensed as a
29 veterinarian by the State of California.

30 ~~(e)~~

31 (h) “Prohibited substance” ~~is any~~ *means a* stimulant, depressant,
32 tranquilizer, anesthetic, including any local anesthetic, sedative
33 analgesic, corticosteroid, anabolic steroid, or agent that would sore
34 a horse, ~~which that~~ could affect the performance, soundness, or
35 disposition of a horse, or any drug, regardless of how harmless or
36 innocuous it might otherwise be, that could interfere with the
37 detection of any prohibited ~~substance. It also includes~~ *substance,*
38 *including* any metabolite or derivative of any prohibited substance.

39 ~~(f)~~

1 (i) ~~“NSAIDs” are~~ “NSAID” means a nonsteroidal
2 anti-inflammatory ~~drugs~~ drug.

3 ~~(g)~~

4 (j) “Therapeutic administration” means the administration of a
5 drug or medicine that is necessary for the treatment of an illness
6 or injury diagnosed by a licensed veterinarian. The administration
7 of a prescription drug or medicine shall only be as given or
8 prescribed by the licensed veterinarian. The administration of a
9 nonprescription drug or medicine shall be in accordance with the
10 directions on the manufacturer’s label.

11 ~~(h)~~

12 (k) ~~“Exempt medications” are medication~~ means an oral or
13 topical ~~medications~~ medication containing prohibited substances
14 determined by the ~~secretary~~ department to be exempt from this
15 chapter when administered therapeutically.

16 ~~(i) “Public” horse shows, competitions, or sales are those events~~

17 (l) “Public equine event” means a horse show or competition
18 that ~~permit~~ permits a person to enter or consign a horse for sale
19 show or competition in exchange for money, goods, or services.
20 ~~Any club or group that permits people to join, enter into~~
21 ~~competition, or consign a horse for sale in exchange for money,~~
22 ~~goods, or services, is “public” for the purposes of this chapter.~~

23 (m) “Public horse sale” is a sale that consigns a horse in
24 exchange for money, goods, or services, excluding sales consisting
25 solely of racing stock.

26 ~~(j)~~

27 (n) “Stimulant or depressant” means ~~any~~ a medication that
28 stimulates or depresses the circulatory, respiratory, or central or
29 peripheral nervous system.

30 ~~(k)~~

31 (o) To “sore” means to apply an irritating or blistering agent
32 internally or externally for the purpose of affecting the
33 performance, soundness, or disposition of a horse.

34 ~~(t)~~

35 (p) “Trainer” means ~~any~~ a person who has the responsibility
36 for the care, training, custody, or performance of a horse, including,
37 but not limited to, ~~any~~ a person who signs any entry blank of ~~any~~
38 a public horse show, competition, or equine event or public horse
39 sale, whether that person is an owner, rider, agent, coach, adult,
40 or minor.

1 *SEC. 4. Section 24004 of the Food and Agricultural Code is*
2 *amended to read:*

3 24004. ~~No~~A horse shall *not* be shown in any class at a ~~public~~
4 ~~horse show, horse competition, or horse sale~~ *an event* if it has been
5 administered in any manner ~~any~~ a prohibited substance in violation
6 of this chapter.

7 *SEC. 5. Section 24005 of the Food and Agricultural Code is*
8 *amended to read:*

9 24005. The trainer or owner, or both the trainer and owner, in
10 the absence of substantial evidence to the contrary, is responsible
11 for a horse's condition and is charged with knowledge of ~~all of the~~
12 provisions contained in this chapter and the rules and regulations
13 adopted pursuant ~~thereto~~ *to this chapter*. If ~~any~~ a trainer is
14 prevented from performing his *or her* duties, including
15 responsibility for the condition of ~~any~~ a horse in his *or her* care,
16 by illness or other cause, or is absent from any ~~public horse show,~~
17 ~~horse competition, or horse sale event~~ where a horse under his *or*
18 *her* care is entered and stabled, ~~he the~~ trainer shall immediately
19 notify the ~~horse show secretary, horse competition secretary,~~
20 ~~secretary~~ or manager of the ~~horse sale event~~, and at the same time
21 a substitute shall be appointed by the trainer ~~and such a~~. *The*
22 substitute shall place his *or her* name on the entry blank at that
23 time. ~~Such~~ *The* substitute shall have the same responsibilities as
24 the substituted trainer would have had for the condition of any
25 horse in his *or her* care.

26 *SEC. 6. Section 24006 of the Food and Agricultural Code is*
27 *amended to read:*

28 24006. ~~Any~~A trainer ~~or~~, owner, or both the trainer and owner,
29 event manager, or any person who administers, attempts to
30 administer, instructs, authorizes, aids, conspires with another to
31 administer, or employs anyone who administers or attempts to
32 administer a prohibited substance to a horse in violation of this
33 chapter shall be subject to the penalties provided in this chapter
34 that are applicable to the trainer or owner. The trainer ~~or~~ *and*
35 owner ~~is~~ *are both* responsible for complying with this chapter after
36 any course of medical therapy has been administered or prescribed
37 by a licensed veterinarian employed by *either* the trainer or owner
38 to examine and treat a horse. A licensed veterinarian who is
39 employed by a trainer or owner to examine and treat a horse is not

1 subject to the penalties provided in this chapter solely on account
2 of that examination and treatment or prescription.

3 *SEC. 7. Section 24008 of the Food and Agricultural Code is*
4 *amended to read:*

5 24008. ~~The horses~~ *A horse at a public horse show, competition,*
6 ~~or horse sale are an event~~ *is* subject to examination under the
7 direction of a licensed veterinarian of the department or agent
8 thereof. The appointed licensed veterinarian, with the approval of
9 ~~the secretary department,~~ may appoint technicians and agents to
10 perform certain duties under this chapter that are not prohibited
11 by other provisions of law. The examination may include physical,
12 ~~saliva, urine, or blood tests, or any other tests~~ *test or procedure in*
13 *at the discretion of the licensed veterinarian, that is necessary to*
14 *effectuate the purposes of this chapter. Any or all horses in or from*
15 *a class or all classes in a public horse show or competition an event*
16 *or any horse entered into or from any class or competition or sale,*
17 *whether in competition or not, if the horse is on the show or sale*
18 *grounds, or any horse withdrawn by any person or trainer within*
19 *24 hours prior to before a class for which it has been entered as*
20 *well as any horse withdrawn from any horse sale, may be*
21 *examined.*

22 *SEC. 8. Section 24009 of the Food and Agricultural Code is*
23 *amended to read:*

24 24009. Whether a horse is in competition or not, refusal to
25 submit a horse in ~~a public horse show, competition, or sale~~ *an*
26 *event* for examination, or *refusal* to cooperate with the licensed
27 veterinarian, or his or her technicians and agents, shall constitute
28 a violation of, and subject the responsible person to, the same
29 penalties that are applicable to prohibited substances or NSAIDs
30 under Section 24007. A suitable sample shall be collected from a
31 horse selected for testing by a drug testing agent of the department
32 unless the agent releases the horse from testing.

33 *SEC. 9. Section 24011 of the Food and Agricultural Code is*
34 *amended to read:*

35 24011. (a) ~~A horse exhibited at an event that receives has~~
36 *received a prohibited substance or any NSAID for which a*
37 *maximum detectable plasma level has been established in Section*
38 *24011.5, within 48 hours prior to any withdrawal time established*
39 *by or pursuant to this chapter, shall not be eligible for show,*
40 *competition, or sale, unless the following requirements have been*

1 met and the facts requested are submitted to the ~~secretary~~
2 *department* in writing:

3 ~~(a)~~

4 (1) Medication shall be therapeutic and necessary for treatment
5 of an illness or injury.

6 ~~(b)~~

7 (2) A horse shall be withdrawn from a show or competition for
8 a period of not less than 24 hours after a prohibited substance is
9 administered, unless the ~~secretary~~ *department* determines a
10 different withdrawal period for a specific prohibited substance or
11 class of substances. A horse shall be withdrawn from a public sale
12 for a period of not less than 72 hours after a prohibited substance
13 or NSAID is administered. The withdrawal period for anabolic
14 steroids is 90 days after administration and the withdrawal period
15 for fluphenazine or reserpine is 45 days after administration.

16 ~~(c)~~

17 (3) The medication shall be administered by a licensed
18 veterinarian, the trainer, or owner.

19 ~~(d)~~

20 (4) Medication shall be identified as to the amount, strength,
21 and mode of administration.

22 ~~(e)~~

23 (5) The statement shall include the date and time of
24 administration of the medication.

25 ~~(f)~~

26 (6) The horse shall be identified by its name, age, sex, color,
27 and entry number.

28 ~~(g)~~

29 (7) The statement shall contain the diagnosis of the attending
30 veterinarian and reason for administering the medication.

31 ~~(h)~~

32 (8) The statement shall be signed by the person administering
33 the medication.

34 ~~(i)~~

35 (9) The statement shall be filed with the event manager of the
36 ~~public horse show or competition~~ *equine event* or general manager
37 of the *public* horse sale within one hour after administration or
38 one hour after the event manager of the event returns to duty, if
39 administration is at a time other than during show or sale hours.

40 ~~(j)~~

1 (10) The statement shall be signed by the event manager or his
2 or her designated representative and time of receipt recorded on
3 the statement by the event manager or his or her designated
4 representative.

5 If

6 (b) If the chemical analysis of the sample taken from a horse so
7 treated indicates the presence of a prohibited substance and all the
8 requirements of this section have been fully complied with, the
9 information contained in the medication report and any other
10 relevant evidence shall be considered at any hearing provided
11 under this chapter in determining whether any provision of this
12 chapter has been violated.

13 SEC. 10. Section 24011.5 of the Food and Agricultural Code
14 is amended to read:

15 24011.5. (a) The therapeutic administration of NSAIDs is
16 permitted ~~prior to~~ before and during all events except public
17 auctions, provided that the dosage or combined dosages do not
18 exceed any limits established by regulation. However, at ~~horse~~
19 ~~shows and competitions~~ public equine events, the maximum
20 number of detectable NSAIDs by laboratory analysis shall be
21 limited to two, except that phenylbutazone and flunixin are not
22 permitted in the same plasma or urine sample. Additionally, the
23 maximum detectable plasma levels for the following NSAIDs are:

24 (a)

25 (1) 15.0 micrograms per milliliter of phenylbutazone.

26 (b)

27 (2) 1.0 micrograms per milliliter of flunixin.

28 (c)

29 (3) 0.250 micrograms per milliliter of ketoprofen.

30 (d)

31 (4) 2.5 micrograms per milliliter of meclufenamic acid.

32 (e)

33 (5) 40 micrograms per milliliter of naproxen.

34 (f)

35 (6) 0.1 micrograms per milliliter of eltenac, upon approval of
36 eltenac by the FDA.

37 (b) This section is repealed on July 1, 2014.

38 SEC. 11. Section 24011.6 is added to the Food and Agricultural
39 Code, to read:

1 24011.6. (a) *The therapeutic administration of NSAIDs is*
2 *permitted before and during all events except public auctions,*
3 *provided that the dosage does not exceed any limits established*
4 *by the department by regulation.*

5 (b) *On or before July 1, 2014, the department shall establish,*
6 *by regulation, the approved therapeutic medications list and*
7 *maximum detectable plasma levels.*

8 SEC. 12. *Section 24012 of the Food and Agricultural Code is*
9 *amended to read:*

10 24012. (a) (1) To provide funds for enforcement of this
11 chapter, the event manager of every event shall charge and collect
12 the applicable fee for each horse entered or exhibited in the event,
13 and each horse consigned for public sale. The secretary may, by
14 regulation, set the applicable fee, in consultation with the advisory
15 committee appointed pursuant to Section 24013.5, at an amount
16 necessary to carry out this chapter. ~~Event managers~~ *An event*
17 *manager* shall be notified of the applicable fee at the time of
18 registration of an event. The event manager of the registered event
19 shall remit the fee established pursuant to this section, in addition
20 to the completed assessment report for the registered event, as
21 prescribed by the secretary, to the department within 15 days after
22 completion of the event. The event manager shall maintain event
23 records for a period of two years after the completion of the event.
24 Upon request by the department, the event records shall be made
25 available to the department for inspection and photocopying to
26 enable verification of appropriate fee collection and remittance.

27 (2) ~~Notwithstanding subdivision (a) of Section 24001, a show~~
28 ~~event held over multiple consecutive days, with a different judge~~
29 ~~on each day, that is registered and managed by the same event~~
30 ~~manager on the same premises, shall be considered one event for~~
31 ~~the purpose of the assessment of the fee.~~

32 (b) ~~Any~~ *An* event manager who does not pay to the department
33 the full amount that is due pursuant to this section shall pay a civil
34 penalty of 10 percent of the amount due plus interest at the rate of
35 1 ½ percent per month of the unpaid balance computed from the
36 date of the event. The event manager is personally liable for fees
37 and penalties owed the department pursuant to this section.

38 (c) Fees and penalties collected pursuant to this section shall be
39 deposited in the Department of Food and Agriculture Fund. All
40 funds received by the department from fees and penalties pursuant

1 to this section shall be used exclusively to carry out the intent and
2 purpose of this chapter, including, but not limited to,
3 pharmacological studies, drug testing, and drug research, inspection
4 for drugs, prosecution of alleged offenders, administrative costs,
5 attorney's and expert witness fees, and any other costs necessary
6 to carry out this chapter.

7 *SEC. 13. Section 24015 of the Food and Agricultural Code is*
8 *amended to read:*

9 24015. (a) Every event shall be registered with the department,
10 unless otherwise prescribed by the secretary by regulation. The
11 event manager of an event shall file a completed registration form
12 with the department, as prescribed by the secretary, at least ~~30~~ 60
13 days ~~prior to~~ before the beginning of the event, which shall
14 constitute the registration of the event.

15 (b) An event manager who fails to register an event required to
16 be registered pursuant to this chapter is subject to a civil penalty
17 to be levied by the secretary in an amount not less than one hundred
18 dollars (\$100) or more than two thousand five hundred dollars
19 (\$2,500). In determining the amount of the penalty, the secretary
20 shall consider any previous violations, and whether the event
21 manager cooperated in good faith with the department.

22 (c) In addition to the civil penalty specified in subdivision (b),
23 the secretary may, after notice and an opportunity for a hearing,
24 suspend the event manager from hosting or managing a public
25 ~~horse show or competition~~ equine event for a period of not less
26 than 90 days or more than one year for each violation. It is unlawful
27 for an event manager suspended from hosting or managing a public
28 ~~horse show or competition~~ equine event by the secretary to conduct
29 a public ~~horse show or competition~~ equine event during the period
30 of suspension. An event manager suspended by the secretary from
31 hosting or managing a public ~~horse show or competition~~ equine
32 event, who hosts or manages a public ~~horse show or competition~~
33 equine event during the period of suspension, is subject to the civil
34 penalty prescribed by subdivision (b) for each public ~~horse show~~
35 ~~or competition~~ equine event held during the period of suspension.

36 *SEC. 14. No reimbursement is required by this act pursuant*
37 *to Section 6 of Article XIII B of the California Constitution because*
38 *the only costs that may be incurred by a local agency or school*
39 *district will be incurred because this act creates a new crime or*
40 *infraction, eliminates a crime or infraction, or changes the penalty*

1 *for a crime or infraction, within the meaning of Section 17556 of*
2 *the Government Code, or changes the definition of a crime within*
3 *the meaning of Section 6 of Article XIII B of the California*
4 *Constitution.*

O